

**Introduced by Senators Simitian, Kehoe, Padilla, and Steinberg
(Coauthor: Senator Leno)**

December 1, 2008

An act to amend Sections 25740 and 25741 of the Public Resources Code, to amend Sections 305, 306, 307, 308, 327, 382, 399.11, 399.12, 399.13, 454.5, and 739.1 of, to amend, repeal, and add Sections 399.14 and 399.15 of, to add Sections 399.22, 739.9, 745, and 1005.1 to, and to repeal Section 387 of, the Public Utilities Code, and to amend Section 80110 of the Water Code, relating to utilities.

LEGISLATIVE COUNSEL'S DIGEST

SB 14, as introduced, Simitian. Utilities: Public Utilities Commission: energy: renewable energy resources: rates.

(1) Under existing law, the Public Utilities Commission (PUC) has regulatory authority over public utilities, including electrical corporations and gas corporations. The California Constitution grants the PUC certain general powers over all public utilities, subject to control by the Legislature, and authorizes the Legislature, unlimited by the other provisions of the Constitution, to confer additional authority and jurisdiction upon the PUC, that is cognate and germane to the regulation of public utilities. Existing law requires the Governor to designate the president of the PUC from among its members and requires the president to direct the executive director, the attorney, and other staff of the PUC, except for the Division of Ratepayer Advocates.

This bill would require the Governor to appoint, subject to the approval of the Senate, a president of the PUC from among its members. The bill would repeal the requirement that the president direct PUC staff.

(2) Existing law requires the office of the PUC to be in the City and County of San Francisco and that, with certain exceptions, the office always be open. Existing law requires the PUC to hold its sessions at least once in each calendar month in that city and county, and authorizes the PUC to also meet at such other times and in such other places as may be expedient and necessary for the proper performance of its duties.

This bill would additionally require the PUC to hold at least one session in each calendar month in the City of Sacramento.

(3) Existing law authorizes the attorney for the PUC, if directed to do so by the president, except as otherwise directed by vote of the PUC, to intervene, if possible, in any action or proceeding involving any question arising pursuant to the Public Utilities Act. Existing law requires the attorney for the PUC to commence, prosecute, and expedite the final determination of all actions and proceedings, and to generally perform all duties and services as attorney to the PUC, as directed or authorized by the president, except as otherwise directed or authorized by vote of the PUC.

This bill would authorize the attorney for the PUC, if directed to do so by the PUC, to intervene, if possible, in any action or proceeding involving any question arising pursuant to the Public Utilities Act. This bill would require the attorney for the PUC to commence, prosecute, and expedite the final determination of all actions and proceedings, and to generally perform all duties and services as attorney to the PUC, as directed or authorized by the PUC.

(4) Existing law requires the executive director for the PUC to keep a full and true record of all proceedings of the PUC, issue all necessary process, writs, warrants, and notices, and perform such other duties as the president, or vote of the PUC, prescribes. Existing law provides that the president may authorize the executive director to dismiss complaints or applications when all parties are in agreement thereto, in accordance with rules that the PUC may prescribe.

This bill would require the executive director to keep a full and true record of all proceedings of the PUC, issue all necessary process, writs, warrants, and notices, and perform the other duties the PUC prescribes. The bill would provide that the PUC may authorize the executive director to dismiss complaints or applications when all parties are in agreement thereto, in accordance with rules that the PUC may prescribe.

(5) Existing law authorizes the PUC to fix the rates and charges for every public utility, and requires that those rates and charges be just and reasonable.

This bill would prohibit the PUC from requiring or permitting an electrical corporation to employ dynamic pricing for residential customers, but would authorize the PUC to authorize an electrical corporation to offer residential customers the option of receiving service pursuant to dynamic pricing. The bill would, beginning January 1, 2016, authorize the PUC to authorize an electrical corporation to employ default dynamic pricing for residential customers, if the customer has the option of receiving service pursuant to a rate schedule that is not based upon dynamic pricing and if residential customers that exercise the option to not receive service pursuant to the dynamic pricing incur no additional costs as a result of the exercise of that option.

(6) Existing law requires the PUC to establish a program of assistance to low-income electric and gas customers, referred to as the California Alternate Rates for Energy or CARE program, and prohibits the cost to be borne solely by any single class of customer.

This bill would require the PUC to establish the CARE program to provide assistance to low-income electric and gas customers with annual household incomes at or below 200% of the federal poverty guideline levels, and require that the cost of the program be recovered on an equal cents-per-kilowatthour or cents-per therm basis from all classes of customers that were subject to the surcharge that funded the CARE program on January 1, 2008.

(7) Existing law relative to electrical restructuring requires that the electrical corporations and gas corporations that participate in the CARE program administer low-income energy efficiency and rate assistance programs described in specified statutes, and undertake certain actions in administering specified energy efficiency and weatherization programs.

This bill would require that electrical corporations, in administering the specified energy efficiency and weatherization programs, to target energy efficiency and solar programs to upper-tier and multifamily customers in a manner that will result in long-term permanent reductions in electricity usage and develop programs that specifically target new construction by, and new and retrofit appliances for, nonprofit affordable housing providers. The bill would require the PUC to require electrical corporations to deploy enhanced low-income energy efficiency programs, as defined, designed to reach as many eligible customers as practicable by December 31, 2014, particularly targeting those customers occupying apartment houses or similar multiunit residential structures, and would require the PUC and electrical corporations and gas

corporations to expend all reasonable efforts to coordinate ratepayer-funded programs with other energy conservation and efficiency programs and to obtain additional federal funding to support actions undertaken pursuant to this requirement.

(8) Existing law relative to electrical restructuring requires the PUC to authorize and facilitate direct transactions between electricity suppliers and retail end-use customers.

Existing law requires the PUC to designate a baseline quantity of electricity and gas necessary for a significant portion of the reasonable energy needs of the average residential customer, and requires that electrical and gas corporations file rates and charges, to be approved by the PUC, providing baseline rates and requires the PUC, in establishing baseline rates, to avoid excessive rate increases for residential customers.

Existing law enacted during the energy crisis of 2000–01, authorized the Department of Water Resources, until January 1, 2003, to enter into contracts for the purchase of electricity, and to sell electricity to retail end use customers and, with specified exceptions, local publicly owned electric utilities, at not more than the department’s acquisition costs and to recover those costs through the issuance of bonds to be repaid by ratepayers. That law provides that the department is entitled to recover certain expenses resulting from its purchases and sales of electricity and authorizes the PUC to enter into an agreement with the department relative to cost recovery. That law prohibits the PUC from increasing the electricity charges in effect on February 1, 2001, for residential customers for existing baseline quantities or usage by those customers of up to 130% of then existing baseline quantities, until the department has recovered the costs of electricity it procured for electrical corporation retail end use customers. That law also suspends the right of retail end-use customers, other than community choice aggregators and a qualifying direct transaction customer, to acquire service through a direct transaction until the Department of Water Resources no longer supplies electricity under that law.

This bill would delete the prohibition that the PUC not increase the electricity charges in effect on February 1, 2001, for residential customers for existing baseline quantities or usage by those customers of up to 130% of then existing baseline quantities. The bill would authorize the PUC, until January 1, 2019, to increase the rates charged residential customers for electricity usage up to 130% of the baseline quantities by the annual percentage change in the Consumer Price Index

from the prior year plus 1%, but not less than 3% and not more than 5% per year. This authorization would be subject to the limitation that rates charged residential customers for electricity usage up to the baseline quantities, including any customer charge revenues, not exceed 90% of the system average rate, as defined. The bill would authorize the PUC to increase the rates for participants in the CARE program, subject to certain limitations. The bill would authorize the PUC to allow individual retail end-use customers currently taking service from an electric service provider, or eligible to take service from an electric service provider under rules adopted by the PUC in existence on January 1, 2008, to acquire service for new accounts, as defined, from an electric service provider. The bill would suspend the right of retail end-use customers to acquire service through a direct transaction until the Legislature, by statute, lifts the suspension or otherwise authorizes direct transactions.

(9) Existing law requires the PUC to require the state's 3 largest electrical corporations, Pacific Gas and Electric Company, San Diego Gas and Electric, and Southern California Edison, to identify a separate electrical rate component to fund programs that enhance system reliability and provide in-state benefits. This rate component is a nonbypassable element of local distribution and collected on the basis of usage. Existing PUC resolutions refer to the nonbypassable rate component as a "public goods charge." The public goods charge moneys are collected to support cost-effective energy efficiency and conservation activities, public interest research and development not adequately provided by competitive and regulated markets, and renewable energy resources.

The existing Warren-Alquist State Energy Resources Conservation and Development Act establishes the State Energy Resources Conservation and Development Commission (Energy Commission). Existing law establishes the Renewable Resource Trust Fund as a continuously appropriated fund in the State Treasury and requires that certain moneys collected to support renewable energy resources through the public goods charge are deposited into the fund and authorizes the Energy Commission to expend the moneys pursuant to the Renewable Energy Resources Program. The program states the intent of the Legislature to increase the amount of electricity generated from eligible renewable energy resources per year so that amount equals at least 20% of total retail sales of electricity in California per year by December 31, 2010.

This bill would revise the Renewable Energy Resources Program to state the intent of the Legislature to increase the amount of electricity generated from eligible renewable energy resources per year, so that amount equals at least 20% of total retail sales of electricity in California per year by December 31, 2010, and 33% by December 31, 2020. The bill would limit eligible in-state renewable electricity generation facilities to facilities that commence initial operation after January 1, 2005. This limitation would also apply to the California Renewables Portfolio Standard (RPS) Program discussed below.

(10) Existing law expresses the intent of the Legislature, in establishing the California Renewables Portfolio Standard (RPS) Program, to increase the amount of electricity generated per year from eligible renewable energy resources, as defined, to an amount that equals at least 20% of the total electricity sold to retail customers in California per year by December 31, 2010.

This bill would express the additional intent that the amount of electricity generated per year from eligible renewable energy resources is increased to an amount that equals at least 33% of the total electricity sold to retail customers in California per year by December 31, 2020.

(11) The Public Utilities Act imposes various duties and responsibilities on the PUC with respect to the purchase of electricity and requires the PUC to review and adopt a procurement plan and a renewable energy procurement plan for each electrical corporation, as defined, pursuant to the RPS program. The RPS program requires that a retail seller of electricity, including electrical corporations, community choice aggregators, and electric service providers, but not including local publicly owned electric utilities, purchase a specified minimum percentage of electricity generated by eligible renewable energy resources in any given year as a specified percentage of total kilowatthours sold to retail end-use customers each calendar year. The RPS program requires each retail seller to increase its total procurement of electricity generated by eligible renewable energy resources by at least an additional 1% of retail sales per year so that 20% of its retail sales of electricity are procured from eligible renewable energy resources no later than December 31, 2010.

This bill would instead require that each retail seller increase its total procurement of electricity generated by eligible renewable energy resources by at least an additional 1% of retail sales per year so that 33% of its retail sales are procured from eligible renewable energy resources no later than December 31, 2020.

Under existing law, a violation of the Public Utilities Act or any order, decision, rule, direction, demand, or requirement of the PUC is a crime.

Because the provisions of this bill are within the act and require action by the PUC to implement its requirements, a violation of these provisions would impose a state-mandated local program by expanding the definition of a crime.

(12) Under existing law, the governing board of a local publicly owned electric utility is responsible for implementing and enforcing a renewables portfolio standard for the utility that recognizes the intent of the Legislature to encourage renewable resources, while taking into consideration the effect of the standard on rates, reliability, and financial resources and the goal of environmental improvement.

This bill would repeal this provision and instead make certain of the requirements of the RPS program, as discussed below, applicable to local publicly owned electric utilities. By placing additional requirements upon local publicly owned electric utilities, the bill would impose a state-mandated local program.

(13) Existing law requires the Energy Commission to certify eligible renewable energy resources, to design and implement an accounting system to verify compliance with the RPS requirements by retail sellers, and to develop tracking, accounting, verification, and enforcement mechanisms for renewable energy credits, as defined.

This bill would require the Energy Commission to design and implement an accounting system to verify compliance with the RPS requirements by retail sellers and local publicly owned electric utilities. The bill would require the Energy Commission, among other things, to adopt regulations for the enforcement of the RPS program with respect to a local publicly owned electric utility, would require, by October 30, 2009, at a noticed public meeting and in consultation with the State Air Resources Board, to establish an RPS requiring each local publicly owned electric utility to procure a minimum quantity of electricity generated by eligible renewable energy resources as a specified percentage of total kilowatthours sold to the utility's retail end-use customers each calendar year, and, in order to meet the requirements of the RPS program, would require the Energy Commission to substantially increase the amounts of electricity generated by eligible renewable energy resources integrated with and interconnected to specified transmission grids.

(14) Existing law requires that an electrical corporation's proposed procurement plan include certain elements, including a showing that

the electrical corporation will, in order to fulfill its unmet resource needs, until a 20% renewable resources portfolio is achieved, procure renewable energy resources with the goal of ensuring that at least an additional 1% per year of the electricity sold by the electrical corporation is generated from eligible renewable energy resources, provided sufficient funds are made available to cover the above-market costs for new renewable energy resources pursuant to certain provisions of the Renewable Energy Resources Program. Existing law requires the PUC to make a determination of the existing market cost for electricity (market price referent).

This bill would require that an electrical corporation's proposed procurement plan include a showing that the electrical corporation will, in order to fulfill its unmet resource needs, until a 33% renewable resources portfolio is achieved, procure renewable energy resources with the goal of ensuring that at least an additional 1% per year of the electricity sold by the electrical corporation is generated from eligible renewable energy resources. The bill would, on January 1, 2010, delete the requirement that the PUC determine the market price referent and delete the limitation on a retail seller's procurement requirements that sufficient funds be made available to cover the above-market costs of electricity.

(15) The Public Utilities Act prohibits any electrical corporation from beginning the construction of, among other things, a line, plant, or system, or of any extension thereof, without having first obtained from the PUC a certificate that the present or future public convenience and necessity require or will require that construction, termed a certificate of public convenience and necessity. Existing law requires the PUC, in acting upon an application by an electrical corporation for a certificate of public convenience and necessity, to deem new transmission facilities necessary to the provision of electric service if the PUC finds that new transmission facilities are necessary to facilitate achievement of the renewable power goals established under the RPS program. Existing law requires the PUC, upon finding that new transmission facilities are necessary to facilitate achievement of the renewable power goals established under the RPS, to take all feasible actions to ensure that the transmission rates established by the Federal Energy Regulatory Commission (FERC) are fully reflected in any retail rates established by the PUC.

This bill would require the PUC to approve an application for a certificate of public convenience and necessity within one year of the

filing of a completed application under specified circumstances and would authorize the PUC, if it finds the costs are justified pursuant to the statutory requirements for approving a rate increase, to allow recovery of certain transmission costs incurred by an electrical corporation.

(16) The existing restructuring of the electrical industry within the Public Utilities Act provides for the establishment of an Independent System Operator (ISO). Existing law requires the ISO to ensure efficient use and reliable operation of the transmission grid consistent with achieving planning and operating reserve criteria no less stringent than those established by the Western Electricity Coordinating Council and the American Electric Reliability Council. Pursuant to existing law, the ISO's tariffs are required to be approved by the FERC.

This bill would require the ISO to undertake all feasible efforts to do certain things and seek the approval of the FERC, if necessary, including adjusting its market structure to achieve, in the most cost-effective manner possible, the increased amount of electricity to be generated by eligible renewable energy resources. The bill would require the PUC to approve reasonable and cost-effective transmission and power line investments that are not under the ratemaking authority of the FERC that are necessary to enable electricity generated by eligible renewable energy resources to be delivered to retail sellers and local publicly owned electric utilities.

(17) This bill would state the intent of the Legislature to appropriate \$3,700,000 from the Public Interest Research, Development, and Demonstration Fund to the Energy Commission for contracts and for interagency agreements with the Department of Fish and Game or other wildlife agencies for the preparation of one or more natural communities conservation plans in the Mojave Desert for the purposes of facilitating the development of solar energy in that region.

(18) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for specified reasons.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

SECTION 1. Section 25740 of the Public Resources Code is amended to read:

25740. *The Legislature finds and declares that the State Air Resources Board has identified a statewide 33 percent renewables portfolio standard as a key measure to comply with the requirements of the California Global Warming Solutions Act of 2006. It is the intent of the Legislature in establishing this program, to increase the amount of electricity generated from eligible renewable energy resources per year, so that it equals at least 20 percent of total retail sales of electricity in California per year by December 31, 2010, and 33 percent by December 31, 2020.*

SEC. 2. Section 25741 of the Public Resources Code is amended to read:

25741. As used in this chapter, the following terms have the following meaning:

(a) “Delivered” and “delivery” mean the electricity output of an in-state renewable electricity generation facility that is used to serve end-use retail customers located within the state. Subject to verification by the accounting system established by the commission pursuant to subdivision (b) of Section 399.13 of the Public Utilities Code, electricity shall be deemed delivered if it is either generated at a location within the state, or is scheduled for consumption by California end-use retail customers. Subject to criteria adopted by the commission, electricity generated by an eligible renewable energy resource may be considered “delivered” regardless of whether the electricity is generated at a different time from consumption by a California end-use customer.

(b) “In-state renewable electricity generation facility” means a facility that meets all of the following criteria:

(1) The facility uses biomass, solar thermal, photovoltaic, wind, geothermal, fuel cells using renewable fuels, small hydroelectric generation of 30 megawatts or less, digester gas, municipal solid waste conversion, landfill gas, ocean wave, ocean thermal, or tidal current, and any additions or enhancements to the facility using that technology.

(2) The facility satisfies one of the following requirements:

(A) The facility is located in the state or near the border of the state with the first point of connection to the transmission network

1 within this state and electricity produced by the facility is delivered
2 to an in-state location.

3 (B) The facility has its first point of interconnection to the
4 transmission network outside the state and satisfies all of the
5 following requirements:

6 (i) It is connected to the transmission network within the
7 Western Electricity Coordinating Council (WECC) service
8 territory.

9 ~~(ii) It commences initial commercial operation after January 1,~~
10 ~~2005.~~

11 ~~(iii)~~

12 (ii) Electricity produced by the facility is delivered to an in-state
13 location.

14 ~~(iv)~~

15 (iii) It will not cause or contribute to any violation of a California
16 environmental quality standard or requirement.

17 ~~(v)~~

18 (iv) If the facility is outside of the United States, it is developed
19 and operated in a manner that is as protective of the environment
20 as a similar facility located in the state.

21 ~~(vi)~~

22 (v) It participates in the accounting system to verify compliance
23 with the renewables portfolio standard ~~by retail sellers~~, once
24 established by the ~~Energy Commission~~ *commission* pursuant to
25 subdivision (b) of Section 399.13 of the Public Utilities Code.

26 ~~(C) The facility meets the requirements of clauses (i), (iii), (iv),~~
27 ~~(v), and (vi) in subparagraph (B), but does not meet the~~
28 ~~requirements of clause (ii) because it commences initial operation~~
29 ~~prior to January 1, 2005, if the facility satisfies either of the~~
30 ~~following requirements:~~

31 ~~(i) The electricity is from incremental generation resulting from~~
32 ~~expansion or repowering of the facility.~~

33 ~~(ii) The facility has been part of the existing baseline of eligible~~
34 ~~renewable energy resources of a retail seller established pursuant~~
35 ~~to paragraph (2) of subdivision (b) of Section 399.15 of the Public~~
36 ~~Utilities Code or has been part of the existing baseline of eligible~~
37 ~~renewable energy resources of a local publicly owned electric~~
38 ~~utility established pursuant to Section 387 of the Public Utilities~~
39 ~~Code.~~

(3) For the purposes of this subdivision, “solid waste conversion” means a technology that uses a noncombustion thermal process to convert solid waste to a clean-burning fuel for the purpose of generating electricity, and that meets all of the following criteria:

(A) The technology does not use air or oxygen in the conversion process, except ambient air to maintain temperature control.

(B) The technology produces no discharges of air contaminants or emissions, including greenhouse gases as defined in Section 38505 of the Health and Safety Code.

(C) The technology produces no discharges to surface or groundwaters of the state.

(D) The technology produces no hazardous wastes.

(E) To the maximum extent feasible, the technology removes all recyclable materials and marketable green waste compostable materials from the solid waste stream prior to the conversion process and the owner or operator of the facility certifies that those materials will be recycled or composted.

(F) The facility at which the technology is used is in compliance with all applicable laws, regulations, and ordinances.

(G) The technology meets any other conditions established by the commission.

(H) The facility certifies that any local agency sending solid waste to the facility diverted at least 30 percent of all solid waste it collects through solid waste reduction, recycling, and composting. For purposes of this paragraph, “local agency” means any city, county, or special district, or subdivision thereof, which is authorized to provide solid waste handling services.

(c) “Procurement entity” means any person or corporation that enters into an agreement with a retail seller to procure eligible renewable energy resources pursuant to subdivision (f) of Section 399.14 of the Public Utilities Code.

(d) “Renewable energy public goods charge” means that portion of the nonbypassable system benefits charge ~~authorized~~ *required* to be collected ~~and to be transferred to the Renewable Resource Trust Fund to fund renewable energy~~ pursuant to the Reliable Electric Service Investments Act (Article 15 (commencing with Section 399) of Chapter 2.3 of Part 1 of Division 1 of the Public Utilities Code).

1 (e) “Report” means the report entitled “Investing in Renewable
2 Electricity Generation in California” (June 2001, Publication
3 Number P500-00-022) submitted to the Governor and the
4 Legislature by the commission.

5 (f) “Retail seller” means a “retail seller” as defined in Section
6 399.12 of the Public Utilities Code.

7 SEC. 3. Section 305 of the Public Utilities Code is amended
8 to read:

9 305. The Governor shall ~~designate~~ *appoint, subject to the*
10 *approval of the Senate*, a president of the commission from among
11 the members of the commission. The president shall ~~direct the~~
12 ~~executive director, the attorney, and other staff of the commission,~~
13 ~~except for the staff of the division described in Section 309.5, in~~
14 ~~the performance of their duties, in accordance with commission~~
15 ~~policies and guidelines. The president shall preside at all meetings~~
16 ~~and sessions of the commission.~~

17 SEC. 4. Section 306 of the Public Utilities Code is amended
18 to read:

19 306. (a) The office of the commission shall be in the City and
20 County of San Francisco. The office shall always be open, legal
21 holidays and nonjudicial days excepted. The commission shall
22 hold its sessions at least once in each calendar month in the City
23 and County of San Francisco. *The commission shall hold at least*
24 *one session in each calendar month in the City of Sacramento.*
25 The commission may also meet at such other times and in such
26 other places as may be expedient and necessary for the proper
27 performance of its duties, and for that purpose may rent quarters
28 or offices.

29 (b) The meetings of the commission shall be open and public
30 in accordance with the provisions of Article 9 (commencing with
31 Section 11120) of Chapter 1 of Part 1 of Division 3 of Title 2 of
32 the Government Code.

33 In addition to the requirements of Section 11125 of the
34 Government Code, the commission shall include in its notice of
35 meetings the agenda of business to be transacted, and no item of
36 business shall be added to the agenda subsequent to the notice in
37 the absence of an unforeseen emergency situation. A rate increase
38 shall not constitute an unforeseen emergency situation. As used
39 in this subdivision, “meeting” shall include all investigations,
40 proceedings, and showings required by law to be open and public.

1 (c) The commission shall have a seal, bearing the inscription
2 “Public Utilities Commission State of California.” The seal shall
3 be affixed to all writs and authentications of copies of records and
4 to such other instruments as the commission shall direct.

5 (d) The commission may procure all necessary books, maps,
6 charts, stationery, instruments, office furniture, apparatus, and
7 appliances.

8 SEC. 5. Section 307 of the Public Utilities Code is amended
9 to read:

10 307. (a) The commission may appoint as attorney to the
11 commission an attorney at law of this state, who shall hold office
12 during the pleasure of the commission.

13 (b) The attorney shall represent and appear for the people of the
14 State of California and the commission in all actions and
15 proceedings involving any question under this part or under any
16 order or act of the commission. If directed to do so by the ~~president,~~
17 ~~except as otherwise directed by vote of the~~ commission, the
18 attorney shall intervene, if possible, in any action or proceeding
19 in which any such question is involved.

20 (c) The attorney shall commence, prosecute, and expedite the
21 final determination of all actions and proceedings directed or
22 authorized by the ~~president, except as otherwise directed or~~
23 ~~authorized by vote of the~~ commission, advise the commission and
24 each commissioner, when so requested, in regard to all matters in
25 connection with the powers and duties of the commission and the
26 members thereof, and generally perform all duties and services as
27 attorney to the commission that the ~~president, or vote of the~~
28 ~~commission,~~ *commission* may require of him *or her*.

29 SEC. 6. Section 308 of the Public Utilities Code is amended
30 to read:

31 308. (a) The commission shall appoint an executive director,
32 who shall hold office during its pleasure. The executive director
33 shall be responsible for the commission’s executive and
34 administrative duties and shall organize, coordinate, supervise,
35 and direct the operations and affairs of the commission and
36 expedite all matters within the commission’s jurisdiction.

37 (b) The executive director shall keep a full and true record of
38 all proceedings of the commission, issue all necessary process,
39 writs, warrants, and notices, and perform ~~such the~~ other duties as
40 the ~~president, or vote of the commission,~~ *commission* prescribes.

1 The ~~president~~ *commission* may authorize the executive director to
2 dismiss complaints or applications when all parties are in
3 agreement thereto, in accordance with rules that the commission
4 may prescribe.

5 (c) The commission may appoint assistant executive directors
6 who may serve warrants and other process in any county or city
7 and county of this state.

8 SEC. 7. Section 327 of the Public Utilities Code is amended
9 to read:

10 327. (a) The ~~electric~~ *electrical corporations* and gas
11 corporations that participate in the California ~~Alternative~~ *Alternate*
12 Rates for Energy program, as established pursuant to Section 739.1,
13 shall administer low-income energy efficiency and rate assistance
14 programs described in Sections 382, 739.1, 739.2, and 2790,
15 subject to commission oversight. In administering the programs
16 described in Section 2790, the ~~electric~~ *electrical corporations* and
17 gas corporations, to the extent practical, shall do all of the
18 following:

19 (1) Continue to leverage funds collected to fund the program
20 described in subdivision (a) with funds available from state and
21 federal sources.

22 (2) Work with state and local agencies, community-based
23 organizations, and other entities to ensure efficient and effective
24 delivery of programs.

25 (3) Encourage local employment and job skill development.

26 (4) Maximize the participation of eligible participants.

27 (5) Work to reduce consumers electric and gas consumption,
28 and bills.

29 (6) *For electrical corporations only, target energy efficiency*
30 *and solar programs to upper-tier and multifamily customers in a*
31 *manner that will result in long-term permanent reductions in*
32 *electricity usage, and develop programs that specifically target*
33 *new construction by, and new and retrofit appliances for, nonprofit*
34 *affordable housing providers.*

35 (b) If the commission requires low-income energy efficiency
36 programs to be subject to competitive bidding, the electric and gas
37 corporation described in subdivision (a), as part of their bid
38 evaluation criteria, shall consider both cost-of-service criteria and
39 quality-of-service criteria. The bidding criteria, at a minimum,
40 shall recognize all of the following factors:

1 (1) The bidder's experience in delivering programs and services,
2 including, but not limited to, weatherization, appliance repair and
3 maintenance, energy education, outreach and enrollment services,
4 and bill payment assistance programs to targeted communities.

5 (2) The bidder's knowledge of the targeted communities.

6 (3) The bidder's ability to reach targeted communities.

7 (4) The bidder's ability to utilize and employ people from the
8 local area.

9 (5) The bidder's general contractor's license and evidence of
10 good standing with the Contractors' State License Board.

11 (6) The bidder's performance quality as verified by the funding
12 source.

13 (7) The bidder's financial stability.

14 (8) The bidder's ability to provide local job training.

15 (9) Other attributes that benefit local communities.

16 (c) Notwithstanding subdivision (b), the commission may
17 modify the bid criteria based upon public input from a variety of
18 sources, including representatives from low-income communities
19 and the program administrators identified in subdivision (b), in
20 order to ensure the effective and efficient delivery of high quality
21 low-income energy efficiency programs.

22 SEC. 8. Section 382 of the Public Utilities Code is amended
23 to read:

24 382. (a) Programs provided to low-income electricity
25 customers, including, but not limited to, targeted energy-efficiency
26 services and the California Alternate Rates for Energy program
27 shall be funded at not less than 1996 authorized levels based on
28 an assessment of customer need.

29 (b) In order to meet legitimate needs of electric and gas
30 customers who are unable to pay their electric and gas bills and
31 who satisfy eligibility criteria for assistance, recognizing that
32 electricity is a basic necessity, and that all residents of the state
33 should be able to afford essential electricity and gas supplies, the
34 commission shall ensure that low-income ratepayers are not
35 jeopardized or overburdened by monthly energy expenditures.
36 Energy expenditure may be reduced through the establishment of
37 different rates for low-income ratepayers, different levels of rate
38 assistance, and energy efficiency programs.

39 (c) Nothing in this section shall be construed to prohibit electric
40 and gas providers from offering any special rate or program for

1 low-income ratepayers that is not specifically required in this
2 section.

3 (d) The commission shall allocate funds necessary to meet the
4 low-income objectives in this section.

5 (e) Beginning in 2002, an assessment of the needs of low-income
6 electricity and gas ratepayers shall be conducted periodically by
7 the commission with the assistance of the Low-Income Oversight
8 Board. The assessment shall evaluate low-income program
9 implementation and the effectiveness of weatherization services
10 and energy efficiency measures in low-income households. The
11 assessment shall consider whether existing programs adequately
12 address low-income electricity and gas customers' energy
13 expenditures, hardship, language needs, and economic burdens.

14 (f) *The commission shall require electrical corporations to*
15 *deploy enhanced low-income energy efficiency programs designed*
16 *to reach as many eligible customers as practicable by December*
17 *31, 2014, particularly targeting those customers occupying*
18 *apartment houses or similar multiunit residential structures. The*
19 *commission and electrical corporations and gas corporations shall*
20 *make all reasonable efforts to coordinate ratepayer-funded*
21 *programs with other energy conservation and efficiency programs*
22 *and to obtain additional federal funding to support actions*
23 *undertaken pursuant to this subdivision. For purposes of this*
24 *subdivision, "enhanced programs" are programs that provide*
25 *long-term reductions in energy consumption at the dwelling unit*
26 *based on an audit or assessment of the dwelling unit, and may*
27 *include improved insulation, energy efficient appliances, measures*
28 *that utilize solar energy, and other cost-effective improvements to*
29 *the physical structure.*

30 SEC. 9. Section 387 of the Public Utilities Code is repealed.

31 ~~387. (a) Each governing body of a local publicly owned electric~~
32 ~~utility shall be responsible for implementing and enforcing a~~
33 ~~renewables portfolio standard that recognizes the intent of the~~
34 ~~Legislature to encourage renewable resources, while taking into~~
35 ~~consideration the effect of the standard on rates, reliability, and~~
36 ~~financial resources and the goal of environmental improvement.~~

37 ~~(b) Each local publicly owned electric utility shall report, on an~~
38 ~~annual basis, to its customers and to the State Energy Resources~~
39 ~~Conservation and Development Commission, the following:~~

1 ~~(1) Expenditures of public goods funds collected pursuant to~~
2 ~~Section 385 for eligible renewable energy resource development.~~
3 ~~Reports shall contain a description of programs, expenditures, and~~
4 ~~expected or actual results.~~

5 ~~(2) The resource mix used to serve its customers by fuel type.~~
6 ~~Reports shall contain the contribution of each type of renewable~~
7 ~~energy resource with separate categories for those fuels that are~~
8 ~~eligible renewable energy resources as defined in Section 399.12;~~
9 ~~except that the electricity is delivered to the local publicly owned~~
10 ~~electric utility and not a retail seller. Electricity shall be reported~~
11 ~~as having been delivered to the local publicly owned electric utility~~
12 ~~from an eligible renewable energy resource when the electricity~~
13 ~~would qualify for compliance with the renewables portfolio~~
14 ~~standard if it were delivered to a retail seller.~~

15 ~~(3) The utility's status in implementing a renewables portfolio~~
16 ~~standard pursuant to subdivision (a) and the utility's progress~~
17 ~~toward attaining the standard following implementation.~~

18 SEC. 10. Section 399.11 of the Public Utilities Code is
19 amended to read:

20 399.11. The Legislature finds and declares all of the following:

21 (a) In order to attain a target of generating 20 percent of total
22 retail sales of electricity in California from eligible renewable
23 energy resources by December 31, 2010, *and 33 percent by*
24 *December 31, 2020*, and for the purposes of increasing the
25 diversity, reliability, public health, and environmental benefits of
26 the energy mix, *reducing emissions of greenhouse gases, and*
27 *promoting economic development* it is the intent of the Legislature
28 that the commission and the ~~State Energy Resources Conservation~~
29 ~~and Development Commission~~ *Energy Commission* implement
30 the California Renewables Portfolio Standard Program described
31 in this article.

32 (b) Increasing California's reliance on eligible renewable energy
33 resources may promote stable electricity prices, protect public
34 health, improve environmental quality, stimulate sustainable
35 economic development, create new employment opportunities,
36 and reduce reliance on imported fuels.

37 (c) The development of eligible renewable energy resources
38 and the delivery of the electricity generated by those resources to
39 customers in California may ameliorate air quality problems
40 throughout the state and improve public health by reducing the

1 burning of fossil fuels and the associated environmental impacts
2 and by reducing in-state fossil fuel consumption.

3 (d) The California Renewables Portfolio Standard Program is
4 intended to complement the Renewable Energy Resources Program
5 administered by the ~~State Energy Resources Conservation and~~
6 ~~Development Commission~~ *Energy Commission* and established
7 pursuant to Chapter 8.6 (commencing with Section 25740) of
8 Division 15 of the Public Resources Code.

9 (e) New and modified electric transmission facilities ~~may~~ *will*
10 be necessary to facilitate the state achieving its renewables portfolio
11 standard targets.

12 SEC. 11. Section 399.12 of the Public Utilities Code is
13 amended to read:

14 399.12. For purposes of this article, the following terms have
15 the following meanings:

16 (a) “Conduit hydroelectric facility” means a facility for the
17 generation of electricity that uses only the hydroelectric potential
18 of an existing pipe, ditch, flume, siphon, tunnel, canal, or other
19 manmade conduit that is operated to distribute water for a
20 beneficial use.

21 (b) “Delivered” and “delivery” have the same meaning as
22 provided in subdivision (a) of Section 25741 of the Public
23 Resources Code.

24 (c) “Eligible renewable energy resource” means an electric
25 generating facility that meets the definition of “in-state renewable
26 electricity generation facility” in Section 25741 of the Public
27 Resources Code, subject to the following ~~limitations~~:

28 (1) (A) An existing small hydroelectric generation facility of
29 30 megawatts or less shall be eligible only if a retail seller or local
30 publicly owned electric utility owned or procured the electricity
31 from the facility as of December 31, 2005. A new hydroelectric
32 facility is not an eligible renewable energy resource if it will cause
33 an adverse impact on instream beneficial uses or cause a change
34 in the volume or timing of streamflow.

35 (B) Notwithstanding subparagraph (A), a conduit hydroelectric
36 facility of 30 megawatts or less that commenced operation before
37 January 1, 2006, is an eligible renewable energy resource. A
38 conduit hydroelectric facility of 30 megawatts or less that
39 commences operation after December 31, 2005, is an eligible
40 renewable energy resource so long as it does not cause an adverse

1 impact on instream beneficial uses or cause a change in the volume
2 or timing of streamflow.

3 (2) A facility engaged in the combustion of municipal solid
4 waste shall not be considered an eligible renewable resource unless
5 it is located in Stanislaus County and was operational prior to
6 September 26, 1996.

7 (d) “Procure” means that a retail seller or local publicly owned
8 electric utility receives delivered electricity generated by an eligible
9 renewable energy resource that it owns or for which it has entered
10 into an electricity purchase agreement. Nothing in this article is
11 intended to imply that the purchase of electricity from third parties
12 in a wholesale transaction is the preferred method of fulfilling a
13 retail seller’s obligation to comply with this article or the obligation
14 of a local publicly owned electric utility to meet its renewables
15 portfolio standard implemented pursuant to Section 387.

16 ~~(e) “Renewables portfolio standard” means the specified~~
17 ~~percentage of electricity generated by eligible renewable energy~~
18 ~~resources that a retail seller is required to procure pursuant to this~~
19 ~~article or the obligation of a local publicly owned electric utility~~
20 ~~to meet its renewables portfolio standard implemented pursuant~~
21 ~~to Section 387.~~

22 ~~(f)~~

23 (e) (1) “Renewable energy credit” means a certificate of proof
24 *associated with the generation of electricity from an eligible*
25 *renewable energy resource*, issued through the accounting system
26 established by the Energy Commission pursuant to Section 399.13,
27 that one unit of electricity was generated and delivered by an
28 eligible renewable energy resource.

29 (2) “Renewable energy credit” includes all renewable and
30 environmental attributes associated with the production of
31 electricity from the eligible renewable energy resource, except for
32 an emissions reduction credit issued pursuant to Section 40709 of
33 the Health and Safety Code and any credits or payments associated
34 with the reduction of solid waste and treatment benefits created
35 by the utilization of biomass or biogas fuels.

36 (3) No electricity generated by an eligible renewable energy
37 resource attributable to the use of nonrenewable fuels, beyond a
38 de minimis quantity, as determined by the Energy Commission,
39 shall result in the creation of a renewable energy credit.

1 (f) “Renewable energy public goods charge” means that portion
2 of the nonbypassable system benefits charge required to be
3 collected to fund renewable energy pursuant to the Reliable
4 Electric Service Investments Act (Article 15 (commencing with
5 Section 399) of Chapter 2.3 of Part 1 of Division 1 for an electrical
6 corporation and pursuant to Section 385 for a local publicly owned
7 electric utility.

8 (g) “Renewables portfolio standard” means the specified
9 percentage of electricity generated by eligible renewable energy
10 resources that a retail seller or a local publicly owned electric
11 utility is required to procure pursuant to this article.

12 ~~(g)~~

13 (h) “Retail seller” means an entity engaged in the retail sale of
14 electricity to end-use customers located within the state, including
15 any of the following:

16 (1) An electrical corporation, as defined in Section 218.

17 (2) A community choice aggregator. The commission shall
18 institute a rulemaking to determine the manner in which a
19 community choice aggregator will participate in the renewables
20 portfolio standard program subject to the same terms and conditions
21 applicable to an electrical corporation.

22 (3) An electric service provider, as defined in Section 218.3,
23 for all sales of electricity to customers beginning January 1, 2006.
24 The commission shall institute a rulemaking to determine the
25 manner in which electric service providers will participate in the
26 renewables portfolio standard program. The electric service
27 provider shall be subject to the same terms and conditions
28 applicable to an electrical corporation pursuant to this article.
29 Nothing in this paragraph shall impair a contract entered into
30 between an electric service provider and a retail customer prior to
31 the suspension of direct access by the commission pursuant to
32 Section 80110 of the Water Code.

33 (4) “Retail seller” does not include any of the following:

34 (A) A corporation or person employing cogeneration technology
35 or producing electricity consistent with subdivision (b) of Section
36 218.

37 (B) The Department of Water Resources acting in its capacity
38 pursuant to Division 27 (commencing with Section 80000) of the
39 Water Code.

40 (C) A local publicly owned electric utility.

SEC. 12. Section 399.13 of the Public Utilities Code is amended to read:

399.13. The Energy Commission shall do all of the following:

(a) Certify eligible renewable energy resources that it determines meet the criteria described in subdivision ~~(b)~~ (c) of Section 399.12.

(b) Design and implement an accounting system to verify compliance with the renewables portfolio standard by retail sellers *and local publicly owned electric utilities*, to ensure that electricity generated by an eligible renewable energy resource is counted only once for the purpose of meeting the renewables portfolio standard of this state or any other state, to certify renewable energy credits produced by eligible renewable energy resources, and to verify retail product claims in this state or any other state. In establishing the guidelines governing this accounting system, the Energy Commission shall collect data from electricity market participants that it deems necessary to verify compliance of retail sellers *and local publicly owned electric utilities*, in accordance with the requirements of this article and the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1 of the Government Code). In seeking data from electrical corporations, the Energy Commission shall request data from the commission. The commission shall collect data from electrical corporations and remit the data to the Energy Commission within 90 days of the request.

(c) Establish a system for tracking and verifying renewable energy credits that, through the use of independently audited data, verifies the generation and delivery of electricity associated with each renewable energy credit and protects against multiple counting of the same renewable energy credit. The Energy Commission shall consult with other western states and with the Western Electricity Coordinating Council in the development of this system.

~~(d) Certify, for purposes of compliance with the renewable portfolio standard requirements by a retail seller, the eligibility of renewable energy credits associated with deliveries of electricity by an eligible renewable energy resource to a local publicly owned electric utility, if the Energy Commission determines that the following conditions have been satisfied:~~

~~(1) The local publicly owned electric utility that is procuring the electricity is in compliance with the requirements of Section 387.~~

~~(2) The local publicly owned electric utility has established an annual renewables portfolio standard target comparable to those applicable to an electrical corporation, is procuring sufficient eligible renewable energy resources to satisfy the targets, and will not fail to satisfy the targets in the event that the renewable energy credit is sold to another retail seller.~~

(d) Certify, for purposes of compliance with the renewables portfolio standard requirements by a retail seller, the eligibility of renewable energy credits associated with deliveries of electricity by an eligible renewable energy resource to a local publicly owned electric utility, if the Energy Commission determines that all of the following conditions have been satisfied:

(1) The local publicly owned electric utility has established an annual 33 percent renewables portfolio standard target comparable to those applicable to an electrical corporation, and is procuring sufficient eligible renewable energy resources to satisfy the target standard, and will not fail to satisfy the target standard in the event that the renewable energy credit is sold to another retail seller.

(2) Each local publicly owned electric utility reports, on an annual basis, to its customers, and to the Energy Commission, all of the following:

(A) Expenditures of funds collected pursuant to the renewable energy public goods charge for eligible renewable energy resource development. Reports shall contain a description of programs, expenditures, and expected or actual results.

(B) The resource mix used to serve its customers by fuel type. Reports shall contain the contribution of each type of renewable energy resource with separate categories for those fuels that are eligible renewable energy resources as defined in Section 399.12, except that the electricity is delivered to the local publicly owned electric utility and not a retail seller. Electricity shall be reported as having been delivered to the local publicly owned electric utility from an eligible renewable energy resource when the electricity would qualify for compliance with the renewables portfolio standard if it were delivered to a retail seller.

(C) The utility's status in implementing a 33 percent renewables portfolio standard pursuant to paragraph (2) of subdivision (f).

(e) In consultation with the State Air Resources Board, adopt regulations for the enforcement of this article with respect to a

1 local publicly owned electric utility. The regulations shall be
2 adopted at a publicly noticed meeting offering all interested parties
3 an opportunity to comment. Not less than 30 days' notice shall be
4 given to the public of any meeting held for purposes of adopting
5 the regulations. Not less than 10 days' notice shall be given to the
6 public before any meeting is held to make a substantive change to
7 the regulations. The regulations shall provide for the imposition
8 of penalties by the State Air Resources Board pursuant to Part 6
9 (commencing with Section 38580) of Division 25.5 of the Health
10 and Safety Code, upon referral and recommendation by the
11 commission, for failure to comply with this article.

12 (f) (1) By October 30, 2009, at a duly noticed public meeting
13 and in consultation with the State Air Resources Board, establish
14 a renewables portfolio standard requiring each local publicly
15 owned electric utility to procure a minimum quantity of electricity
16 generated by eligible renewable energy resources, including
17 renewable energy credits, as a specified percentage of total
18 kilowatthours sold to the utility's retail end-use customers each
19 calendar year. The Energy Commission shall enforce the
20 renewables portfolio standard upon its establishment.

21 (2) Every three years, each local publicly owned electric utility
22 shall post notice in accordance with Chapter 9 (commencing with
23 Section 54950) of Part 1 of Division 2 of Title 5 of the Government
24 Code whenever its governing body will deliberate in public on its
25 renewable energy resources procurement plan.

26 (A) Contemporaneous with the posting of the notice of a public
27 meeting to consider the energy resources procurement plan, the
28 local publicly owned electric utility shall notify the Energy
29 Commission of the date, time, and location of the meeting so the
30 Energy Commission may post the information on its Internet Web
31 site. This requirement is satisfied if the local publicly owned
32 electric utility provides the uniform resource locator (URL) that
33 links to this information.

34 (B) Upon distribution to its governing body of information
35 related to its renewable energy resource procurement status and
36 future plans, for its consideration at a noticed public meeting, the
37 local publicly owned electric utility shall make that information
38 available to the public and shall provide the Energy Commission
39 with an electronic copy of the documents for posting on the Energy
40 Commission's Internet Web site. This requirement is satisfied if

1 *the local publicly owned electric utility provides the uniform*
2 *resource locator (URL) that links to the documents or information*
3 *regarding other manners of access to the documents.*

4 *(3) Within 30 business days after a local publicly owned electric*
5 *utility enters into a renewable resource procurement contract, the*
6 *local publicly owned electric utility shall submit to the Energy*
7 *Commission documentation that includes all of the following:*

8 *(A) A description of the renewable resource and the terms of*
9 *the contract.*

10 *(B) A description and identification of the electric generating*
11 *facility providing the renewable energy resource under the*
12 *contract.*

13 *(C) An explanation as to how the electricity generated by that*
14 *facility will be certified as having been generated by an eligible*
15 *renewable energy resource and how that electricity will be used*
16 *to serve the load of the local publicly owned electric utility.*

17 *(D) An explanation as to how the contract supports the local*
18 *publicly owned electric utility's renewables portfolio standard.*

19 *(g) In order for the state to meet the requirements of the*
20 *California Renewables Portfolio Standard Program, substantially*
21 *increased amounts of electricity generated by eligible renewable*
22 *energy resources must be integrated with, and interconnected to,*
23 *the transmission grid that is either owned by, or under the*
24 *operational control of, the local publicly owned electric utilities*
25 *and the transmission grid that is under the operational control of*
26 *the Independent System Operator.*

27 *(h) The Energy Commission, in consultation and cooperation*
28 *with the Independent System Operator and local publicly owned*
29 *electric utility balancing authorities, shall facilitate a process for*
30 *the execution of so-called "seams agreements" between balancing*
31 *authorities providing for the joint operation and cooperative*
32 *scheduling of separately owned and operated but interconnected*
33 *transmission grid systems in a way that optimizes the available*
34 *transfer capacity of the combined statewide system, respects the*
35 *long-term physical transmission rights of each party, and provides*
36 *cost certainty. The Energy Commission shall facilitate all of the*
37 *following:*

38 *(1) The development of annual statewide transmission plans*
39 *that incorporate local publicly owned electric utility transmission*
40 *plans and any potential joint privately owned and local publicly*

1 *owned electric utility infrastructure projects, with the goal of*
2 *minimizing the aggregate amount and cost of new transmission*
3 *needed statewide to meet both reliability needs and renewables*
4 *portfolio standard targets.*

5 *(2) The siting and approval of new transmission lines that can*
6 *be jointly owned or utilized by electrical corporations, merchant*
7 *transmission companies, and local publicly owned electric utilities,*
8 *and can be jointly operated by the Independent System Operator*
9 *and local publicly owned electric utility balancing authorities.*

10 SEC. 13. Section 399.14 of the Public Utilities Code is
11 amended to read:

12 399.14. (a) (1) The commission shall direct each electrical
13 corporation to prepare a renewable energy procurement plan that
14 includes the matter in paragraph (3), to satisfy its obligations under
15 the renewables portfolio standard. To the extent feasible, this
16 procurement plan shall be proposed, reviewed, and adopted by the
17 commission as part of, and pursuant to, a general procurement
18 plan process. The commission shall require each electrical
19 corporation to review and update its renewable energy procurement
20 plan as it determines to be necessary.

21 (2) The commission shall adopt, by rulemaking, all of the
22 following:

23 (A) A process for determining market prices pursuant to
24 subdivision (c) of Section 399.15. The commission shall make
25 specific determinations of market prices after the closing date of
26 a competitive solicitation conducted by an electrical corporation
27 for eligible renewable energy resources.

28 (B) A process that provides criteria for the rank ordering and
29 selection of least-cost and best-fit eligible renewable energy
30 resources to comply with the annual California Renewables
31 Portfolio Standard Program obligations on a total cost basis. This
32 process shall consider estimates of indirect costs associated with
33 needed transmission investments and ongoing utility expenses
34 resulting from integrating and operating eligible renewable energy
35 resources. *This process shall also consider, but shall not be limited*
36 *to, the cost impact of procuring the eligible renewable energy*
37 *resources on the electrical corporation's electricity portfolio,*
38 *system reliability, and the environmental and economic benefits*
39 *of procuring renewable energy.*

1 (C) (i) Flexible rules for compliance, including rules permitting
2 retail sellers to apply excess procurement in one year to subsequent
3 years or inadequate procurement in one year to no more than the
4 following three years. The flexible rules for compliance shall apply
5 to all years, including years before and after a retail seller procures
6 at least 20 percent *by 2010, and 33 percent by 2020*, of total retail
7 sales of electricity from eligible renewable energy resources.

8 (ii) The flexible rules for compliance shall address situations
9 where, as a result of insufficient transmission, a retail seller is
10 unable to procure eligible renewable energy resources sufficient
11 to satisfy the requirements of this article. Any rules addressing
12 insufficient transmission shall require a finding by the commission
13 that the retail seller has undertaken all reasonable efforts to do all
14 of the following:

15 (I) Utilize flexible delivery points.

16 (II) Ensure the availability of any needed transmission capacity.

17 (III) If the retail seller is an electric corporation, to construct
18 needed transmission facilities.

19 (IV) Nothing in this subparagraph shall be construed to revise
20 any portion of Section 454.5.

21 (D) Standard terms and conditions to be used by all electrical
22 corporations in contracting for eligible renewable energy resources,
23 including performance requirements for renewable generators. A
24 contract for the purchase of electricity generated by an eligible
25 renewable energy resource shall, at a minimum, include the
26 renewable energy credits associated with all electricity generation
27 specified under the contract. The standard terms and conditions
28 shall include the requirement that, no later than six months after
29 the commission's approval of an electricity purchase agreement
30 entered into pursuant to this article, the following information
31 about the agreement shall be disclosed by the commission: party
32 names, resource type, project location, and project capacity.

33 (3) Consistent with the goal of ~~procuring the least-cost and~~
34 ~~best-fit eligible~~ *increasing California's reliance on eligible*
35 renewable energy resources, the renewable energy procurement
36 plan submitted by an electrical corporation shall include all of the
37 following:

38 (A) An assessment of annual or multiyear portfolio supplies
39 and demand to determine the optimal mix of eligible renewable
40 energy resources with deliverability characteristics that may include

1 peaking, dispatchable, baseload, firm, and as-available capacity.
2 *This assessment shall be consistent with the electrical corporation's*
3 *long-term portfolio planning conducted pursuant to Section 454.5*
4 *and shall consider the electrical corporation's optimal portfolio*
5 *to reach the state's goals for reducing emissions of greenhouse*
6 *gases. Consistent with an electrical corporation's long-term*
7 *portfolio planning, the commission may require analyses,*
8 *including, but not limited to, the rate impact, effects on system*
9 *reliability, and the environmental and economic benefits of the*
10 *proposed procurement.*

11 (B) ~~Provisions~~ Strategies for employing available compliance
12 flexibility mechanisms established by the commission.

13 (C) A bid solicitation setting forth the need for eligible
14 renewable energy resources of each deliverability characteristic,
15 required online dates, and locational preferences, if any.

16 (4) In soliciting and procuring eligible renewable energy
17 resources, each electrical corporation shall offer contracts of no
18 less than 10 years in duration, unless the commission approves of
19 a contract of shorter duration.

20 ~~(5) In soliciting and procuring eligible renewable energy~~
21 ~~resources, each electrical corporation may give preference to~~
22 ~~projects that provide tangible demonstrable benefits to communities~~
23 ~~with a plurality of minority or low-income populations.~~

24 (5) (A) *In soliciting and procuring eligible renewable energy*
25 *resources for California-based projects, each electrical*
26 *corporation shall give preference to renewable energy projects*
27 *that provide environmental and economic benefits to communities*
28 *afflicted with poverty or high unemployment, or that suffer from*
29 *high emission levels of toxic air contaminants, criteria air*
30 *pollutants, and greenhouse gases.*

31 (B) *The commission shall report to the Legislature by January*
32 *1, 2012, and every two years thereafter, on the progress and status*
33 *of procurement activities, the identification of barriers, and policy*
34 *recommendations for achieving the goals set forth in this*
35 *paragraph.*

36 (b) *A retail seller may enter into a combination of long- and*
37 *short-term contracts for delivery of electricity and associated*
38 *renewable energy credits.* The commission may authorize a retail
39 seller to enter into a contract of less than 10 years' duration with
40 an eligible renewable energy resource, if the commission has

1 established, for each retail seller, minimum quantities of eligible
2 renewable energy resources to be procured either through contracts
3 of at least 10 years' duration or from new facilities commencing
4 commercial operations on or after January 1, 2005.

5 (c) The commission shall review and accept, modify, or reject
6 each electrical corporation's renewable energy procurement plan
7 prior to the commencement of renewable procurement pursuant
8 to this article by an electrical corporation.

9 (d) The commission shall review the results of an eligible
10 renewable energy resources solicitation submitted for approval by
11 an electrical corporation and accept or reject proposed contracts
12 with eligible renewable energy resources based on consistency
13 with the approved renewable energy procurement plan. If the
14 commission determines that the bid prices are elevated due to a
15 lack of effective competition among the bidders, the commission
16 shall direct the electrical corporation to renegotiate the contracts
17 or conduct a new solicitation.

18 ~~(e) If an electrical corporation fails to comply with a commission~~
19 ~~order adopting a renewable energy procurement plan, the~~
20 ~~commission shall exercise its authority pursuant to Section 2113~~
21 ~~to require compliance. The commission shall enforce comparable~~
22 ~~penalties on any other retail seller that fails to meet annual~~
23 ~~procurement targets established pursuant to Section 399.15. The~~
24 ~~commission, in consultation with the State Air Resources Board,~~
25 ~~shall adopt rules for the enforcement of this article with respect~~
26 ~~to retail sellers. The rules shall be adopted at a publicly noticed~~
27 ~~meeting offering all interested parties an opportunity to comment.~~
28 ~~Not less than 30 days' notice shall be given to the public of any~~
29 ~~meeting held for purposes of adopting the rules. Not less than 10~~
30 ~~days' notice shall be given to the public before any meeting is held~~
31 ~~to make a substantive change to the rules. The rules shall provide~~
32 ~~for the imposition of penalties by the State Air Resources Board~~
33 ~~pursuant to Part 6 (commencing with Section 38580) of Division~~
34 ~~25.5 of the Health and Safety Code, upon referral and~~
35 ~~recommendation by the commission, for failure to comply with~~
36 ~~this article. Nothing in this subdivision precludes the imposition~~
37 ~~of any other penalties under any other provision of law.~~

38 (f) (1) The commission may authorize a procurement entity to
39 enter into contracts on behalf of customers of a retail seller for
40 deliveries of eligible renewable energy resources to satisfy annual

1 renewables portfolio standard obligations. The commission may
2 not require any person or corporation to act as a procurement entity
3 or require any party to purchase eligible renewable energy
4 resources from a procurement entity.

5 (2) Subject to review and approval by the commission, the
6 procurement entity shall be permitted to recover reasonable
7 administrative and procurement costs through the retail rates of
8 end-use customers that are served by the procurement entity and
9 are directly benefiting from the procurement of eligible renewable
10 energy resources.

11 (g) Procurement and administrative costs associated with
12 long-term contracts entered into by an electrical corporation for
13 eligible renewable energy resources pursuant to this article and
14 approved by the commission shall be deemed reasonable ~~per se~~
15 and shall be recoverable in rates.

16 (h) Construction, alteration, demolition, installation, and repair
17 work on an eligible renewable energy resource that receives
18 production incentives pursuant to Section 25742 of the Public
19 Resources Code, including work performed to qualify, receive, or
20 maintain production incentives ~~is~~ are “public works” for the
21 purposes of Chapter 1 (commencing with Section 1720) of Part 7
22 of Division 2 of the Labor Code.

23 (i) *This section shall remain in effect only until January 1, 2010,*
24 *and as of that date is repealed, unless a later enacted statute, that*
25 *is enacted before January 1, 2010, deletes or extends that date.*

26 SEC. 14. Section 399.14 is added to the Public Utilities Code,
27 to read:

28 399.14. (a) (1) The commission shall direct each electrical
29 corporation to prepare a renewable energy procurement plan that
30 includes the matter in paragraph (3), to satisfy its obligations under
31 the renewables portfolio standard. To the extent feasible, this
32 procurement plan shall be proposed, reviewed, and adopted by the
33 commission as part of, and pursuant to, a general procurement
34 plan process. The commission shall require each electrical
35 corporation to review and update its renewable energy procurement
36 plan as it determines to be necessary.

37 (2) The commission shall adopt, by rulemaking, all of the
38 following:

39 (A) A process that provides criteria for the rank ordering and
40 selection of least-cost and best-fit eligible renewable energy

resources to comply with the annual California Renewables Portfolio Standard Program obligations on a total cost basis. This process shall consider estimates of indirect costs associated with needed transmission investments and ongoing utility expenses resulting from integrating and operating eligible renewable energy resources. This process shall also consider, but not be limited to, the cost impact of procuring the eligible renewable energy resources on the electrical corporation's electricity portfolio, system reliability, and the environmental and economic benefits of procuring renewable energy.

(B) Flexible rules for compliance, including rules permitting retail sellers to apply excess procurement in one year to subsequent years or inadequate procurement in one year to no more than the following three years. The flexible rules for compliance shall apply to all years, including years before and after a retail seller procures at least 20 percent by 2010, and 33 percent by 2020, of total retail sales of electricity from eligible renewable energy resources.

(C) Standard terms and conditions to be used by all electrical corporations in contracting for eligible renewable energy resources, including performance requirements for renewable generators. A contract for the purchase of electricity generated by an eligible renewable energy resource shall, at a minimum, include the renewable energy credits associated with all electricity generation specified under the contract. The standard terms and conditions shall include the requirement that, no later than six months after the commission's approval of an electricity purchase agreement entered into pursuant to this article, the following information about the agreement shall be disclosed by the commission: party names, resource type, project location, and project capacity.

(3) Consistent with the goal of increasing California's reliance on eligible renewable energy resources, the renewable energy procurement plan submitted by an electrical corporation shall include all of the following:

(A) An assessment of annual or multiyear portfolio supplies and demand to determine the optimal mix of eligible renewable energy resources with deliverability characteristics that may include peaking, dispatchable, baseload, firm, and as-available capacity. This assessment shall be consistent with the electrical corporation's long-term portfolio planning conducted pursuant to Section 454.5 and shall consider the electrical corporation's optimal portfolio to

1 reach the state's goals for reducing emissions of greenhouse gases.
2 Consistent with an electrical corporation's long-term portfolio
3 planning, the commission may require analyses, including, but not
4 limited to, the rate impact, effects on system reliability, and the
5 environmental and economic benefits of the proposed procurement.

6 (B) Strategies for employing available compliance flexibility
7 mechanisms established by the commission.

8 (C) A bid solicitation setting forth the need for eligible
9 renewable energy resources of each deliverability characteristic,
10 required online dates, and locational preferences, if any.

11 (D) A status update on the development schedule of all eligible
12 renewable resources currently under contract.

13 (4) In soliciting and procuring eligible renewable energy
14 resources, each electrical corporation shall offer contracts of no
15 less than 10 years in duration, unless the commission approves of
16 a contract of shorter duration.

17 (5) (A) In soliciting and procuring eligible renewable energy
18 resources for California-based projects, each electrical corporation
19 shall give preference to renewable energy projects that provide
20 environmental and economic benefits to communities afflicted
21 with poverty or high unemployment, or that suffer from high
22 emission levels of toxic air contaminants, criteria air pollutants,
23 and greenhouse gases.

24 (B) The commission shall report to the Legislature by January
25 1, 2012, and every two years thereafter, on the progress and status
26 of procurement activities, the identification of barriers, and policy
27 recommendations for achieving the goals set forth in this paragraph.

28 (b) A retail seller may enter into a combination of long- and
29 short-term contracts for delivery of electricity and associated
30 renewable energy credits. The commission may authorize a retail
31 seller to enter into a contract of less than 10 years' duration with
32 an eligible renewable energy resource, if the commission has
33 established, for each retail seller, minimum quantities of eligible
34 renewable energy resources to be procured through contracts of
35 at least 10 years' duration.

36 (c) The commission shall review and accept, modify, or reject
37 each electrical corporation's renewable energy procurement plan
38 prior to the commencement of renewable procurement pursuant
39 to this article by an electrical corporation.

1 (d) (1) The commission shall review the results of an eligible
2 renewable energy resources solicitation submitted for approval by
3 an electrical corporation and accept or reject proposed contracts
4 with eligible renewable energy resources based on consistency
5 with the approved renewable energy procurement plan. If the
6 commission determines that the bid prices are elevated due to a
7 lack of effective competition among the bidders, the commission
8 shall direct the electrical corporation to renegotiate the contracts
9 or conduct a new solicitation.

10 (2) The commission shall establish project development
11 milestones to evaluate the potential for compliance with the
12 adopted renewable procurement plan and a set of actions that will
13 occur as a result of not meeting those milestones. These actions
14 may include, but shall not be limited to, determining a cure period
15 for failure to meet milestones, a suspense period on the contract
16 online date for events beyond the developer's control that cause a
17 failure to meet milestones, allow other developers that are prepared
18 to go forward to move ahead of suspended contracts, and forfeiture
19 of deposits.

20 (e) The commission, in consultation with the State Air Resources
21 Board, shall adopt rules for the enforcement of this article with
22 respect to retail sellers. The rules shall be adopted at a publicly
23 noticed meeting offering all interested parties an opportunity to
24 comment. Not less than 30 days' notice shall be given to the public
25 of any meeting held for purposes of adopting the rules. Not less
26 than 10 days' notice shall be given to the public before any meeting
27 is held to make a substantive change to the rules. The rules shall
28 provide for the imposition of penalties by the State Air Resources
29 Board pursuant to Part 6 (commencing with Section 38580) of
30 Division 25.5 of the Health and Safety Code, upon referral and
31 recommendation by the commission, for failure to comply with
32 this article. Nothing in this subdivision precludes the imposition
33 of any other penalties under any other provision of law.

34 (f) (1) The commission may authorize a procurement entity to
35 enter into contracts on behalf of customers of a retail seller for
36 deliveries of eligible renewable energy resources to satisfy annual
37 renewables portfolio standard obligations. The commission may
38 not require any person or corporation to act as a procurement entity
39 or require any party to purchase eligible renewable energy
40 resources from a procurement entity.

(2) Subject to review and approval by the commission, the procurement entity shall be permitted to recover reasonable administrative and procurement costs through the retail rates of end-use customers that are served by the procurement entity and are directly benefiting from the procurement of eligible renewable energy resources.

(g) Procurement and administrative costs associated with long-term contracts entered into by an electrical corporation for eligible renewable energy resources pursuant to this article and approved by the commission shall be deemed reasonable and shall be recoverable in rates.

(h) Construction, alteration, demolition, installation, and repair work on an eligible renewable energy resource that receives production incentives pursuant to Section 25742 of the Public Resources Code, including work performed to qualify, receive, or maintain production incentives are “public works” for the purposes of Chapter 1 (commencing with Section 1720) of Part 7 of Division 2 of the Labor Code.

(i) This section shall become operative on January 1, 2010.

SEC. 15. Section 399.15 of the Public Utilities Code is amended to read:

399.15. (a) ~~In order to fulfill unmet long-term resource needs, the~~ The commission shall establish a renewables portfolio standard requiring all ~~electrical corporations~~ *retail sellers* to procure a minimum quantity of electricity generated by eligible renewable energy resources as a specified percentage of total kilowatthours sold to their retail end-use customers each calendar year, subject to limits ~~for electrical corporations~~ on the total amount of costs expended above the market prices determined in subdivision (c), to achieve the targets established under this article.

(b) The commission shall implement annual procurement targets for each retail seller as follows:

(1) Each retail seller shall, pursuant to subdivision (a), increase its total procurement of eligible renewable energy resources by at least an additional 1 percent of retail sales per year so that 20 percent of its retail sales are procured from eligible renewable energy resources no later than December 31, 2010, *and 33 percent no later than December 31, 2020, if the commission determines that achieving these targets will result in just and reasonable rates.*

A retail seller with ~~20~~ 33 percent of retail sales procured from

1 eligible renewable energy resources in any year shall not be
2 required to increase its procurement of renewable energy resources
3 in the following year.

4 (2) For purposes of setting annual procurement targets, the
5 commission shall establish an initial baseline for each retail seller
6 based on the actual percentage of retail sales procured from eligible
7 renewable energy resources in 2001, and to the extent applicable,
8 adjusted going forward pursuant to Section 399.12.

9 (3) Only for purposes of establishing these targets, the
10 commission shall include all electricity sold to retail customers by
11 the Department of Water Resources pursuant to Section 80100 of
12 the Water Code in the calculation of retail sales by an electrical
13 corporation.

14 (4) ~~In the event that~~ If a retail seller fails to procure sufficient
15 eligible renewable energy resources in a given year to meet any
16 annual target established pursuant to this subdivision, the retail
17 seller shall procure additional eligible renewable energy resources
18 in subsequent years to compensate for the shortfall, subject to the
19 limitation on costs for electrical corporations established pursuant
20 to subdivision (d).

21 (c) The commission shall establish a methodology to determine
22 the market price of electricity for terms corresponding to the length
23 of contracts with eligible renewable energy resources, in
24 consideration of the following:

25 (1) The long-term market price of electricity for fixed price
26 contracts, determined pursuant to an electrical corporation's general
27 procurement activities as authorized by the commission.

28 (2) The long-term ownership, operating, and fixed-price fuel
29 costs associated with fixed-price electricity from new generating
30 facilities.

31 (3) The value of different products including baseload, peaking,
32 and as-available electricity.

33 (d) The commission shall establish, for each electrical
34 corporation, a limitation on the total costs expended above the
35 market prices determined in subdivision (c) for the procurement
36 of eligible renewable energy resources to achieve the annual
37 procurement targets established under this article.

38 (1) The cost limitation shall be equal to the amount of funds
39 transferred to each electrical corporation by the Energy
40 Commission pursuant to subdivision (b) of Section 25743 of the

1 Public Resources Code and the 51.5 percent of the funds which
2 would have been collected through January 1, 2012, from the
3 customers of the electrical corporation based on the renewable
4 energy public goods charge in effect as of January 1, 2007.

5 (2) The above-market costs of a contract selected by an electrical
6 corporation may be counted toward the cost limitation if all of the
7 following conditions are satisfied:

8 (A) The contract has been approved by the commission and was
9 selected through a competitive solicitation pursuant to the
10 requirements of subdivision (d) of Section 399.14.

11 (B) The contract covers a duration of no less than 10 years.

12 ~~(C) The contracted project is a new or repowered facility~~
13 ~~commencing commercial operations on or after January 1, 2005.~~

14 ~~(D)~~

15 (C) No purchases of renewable energy credits may be eligible
16 for consideration as an above-market cost.

17 ~~(E)~~

18 (D) The above-market costs of a contract do not include any
19 indirect expenses including imbalance energy charges, sale of
20 excess energy, decreased generation from existing resources, or
21 transmission upgrades.

22 (3) If the cost limitation for an electrical corporation is
23 insufficient to support the total costs expended above the market
24 prices determined in subdivision (c) for the procurement of eligible
25 renewable energy resources satisfying the conditions of paragraph
26 (2), the commission shall allow the electrical corporation to limit
27 its procurement to the quantity of eligible renewable energy
28 resources that can be procured at or below the market prices
29 established in subdivision (c).

30 (4) Nothing in this section prevents an electrical corporation
31 from voluntarily proposing to procure eligible renewable energy
32 resources at above-market prices that are not counted toward the
33 cost limitation. Any voluntary procurement involving above-market
34 costs shall be subject to commission approval prior to the expense
35 being recovered in rates.

36 (e) The establishment of a renewables portfolio standard shall
37 not constitute implementation by the commission of the federal
38 Public Utility Regulatory Policies Act of 1978 (Public Law
39 95-617).

1 (f) The commission shall consult with the Energy Commission
2 in calculating market prices under subdivision (c) and establishing
3 other renewables portfolio standard policies.

4 (g) *An electrical corporation shall submit a contract for eligible
5 renewable energy resources to the commission for review, pursuant
6 to the electrical corporation's approved renewable energy
7 procurement plan.*

8 (1) *In conducting a review, the commission shall do all of the
9 following:*

10 (A) *Consider system reliability.*

11 (B) *Consider the value of different generation characteristics
12 including peaking, dispatchable, baseload, and firm and
13 as-available capacity of renewable projects.*

14 (C) *Make an assessment of the price risk associated with the
15 electrical corporation's renewable energy portfolio, including any
16 proposed contracts or purchases under which an electrical
17 corporation will procure renewable energy.*

18 (2) *The costs of contracts for eligible renewable energy
19 resources that have been approved by the commission shall be
20 recoverable in rates of electrical corporations.*

21 (h) *This section shall remain in effect only until January 1, 2010,
22 and as of that date is repealed, unless a later enacted statute, that
23 is enacted before January 1, 2010, deletes or extends that date.*

24 SEC. 16. Section 399.15 is added to the Public Utilities Code,
25 to read:

26 399.15. (a) The commission shall establish a renewables
27 portfolio standard requiring all retail sellers to procure a minimum
28 quantity of electricity generated by eligible renewable energy
29 resources as a specified percentage of total kilowatthours sold to
30 their retail end-use customers each calendar year to achieve the
31 targets established under this article.

32 (b) The commission shall implement annual procurement targets
33 for each retail seller as follows:

34 (1) Each retail seller shall, pursuant to subdivision (a), increase
35 its total procurement of eligible renewable energy resources by at
36 least an additional 1 percent of retail sales per year so that 20
37 percent of its retail sales are procured from eligible renewable
38 energy resources no later than December 31, 2010, and 33 percent
39 no later than December 31, 2020, if the commission determines
40 that achieving these targets will result in just and reasonable rates.

1 A retail seller with 33 percent of retail sales procured from eligible
2 renewable energy resources in any year shall not be required to
3 increase its procurement of renewable energy resources in the
4 following year.

5 (2) For purposes of setting annual procurement targets, the
6 commission shall establish an initial baseline for each retail seller
7 based on the actual percentage of retail sales procured from eligible
8 renewable energy resources in 2001, and to the extent applicable,
9 adjusted in subsequent years pursuant to Section 399.12.

10 (3) Only for purposes of establishing these targets, the
11 commission shall include all electricity sold to retail customers by
12 the Department of Water Resources pursuant to Section 80100 of
13 the Water Code in the calculation of retail sales by an electrical
14 corporation.

15 (4) If a retail seller fails to procure sufficient eligible renewable
16 energy resources in a given year to meet any annual target
17 established pursuant to this subdivision, the retail seller shall
18 procure additional eligible renewable energy resources in
19 subsequent years to compensate for the shortfall.

20 (c) The establishment of a renewables portfolio standard shall
21 not constitute implementation by the commission of the federal
22 Public Utility Regulatory Policies Act of 1978 (Public Law
23 95-617).

24 (d) The commission shall consult with the Energy Commission
25 in establishing renewables portfolio standard policies.

26 (e) An electrical corporation shall submit a contract for eligible
27 renewable energy resources to the commission for review, pursuant
28 to the electrical corporation's approved renewable energy
29 procurement plan.

30 (1) In conducting a review, the commission shall do all of the
31 following:

32 (A) Consider system reliability.

33 (B) Consider the value of different generation characteristics
34 including peaking, dispatchable, baseload, and firm and
35 as-available capacity of renewable projects.

36 (C) Make an assessment of the price risk associated with the
37 electrical corporation's renewable energy portfolio, including any
38 proposed contracts or purchases under which an electrical
39 corporation will procure renewable energy.

1 (2) The costs of contracts for eligible renewable energy
2 resources that have been approved by the commission shall be
3 recoverable in rates of electrical corporations.

4 (f) This section shall become operative on January 1, 2010.

5 SEC. 17. Section 399.22 is added to the Public Utilities Code,
6 to read:

7 399.22. (a) In order for the state to meet the requirements of
8 the California Renewables Portfolio Standard Program,
9 substantially increased amounts of electricity generated by eligible
10 renewable energy resources must be integrated with, and
11 interconnected to, the transmission grid that is under the operational
12 control of the Independent System Operator.

13 (b) The Independent System Operator shall undertake all feasible
14 efforts to do all of the following, and shall seek the approval of
15 the Federal Energy Regulatory Commission, if necessary:

16 (1) Adjust its market structure to achieve, in the most
17 cost-effective manner possible, a minimum of 33 percent of
18 electricity generated from eligible renewable energy resources by
19 December 31, 2020.

20 (2) In consultation and cooperation with local publicly owned
21 electric utilities develop annual statewide transmission plans that
22 incorporate local publicly owned electric utility transmission plans
23 and any potential joint privately owned and local publicly owned
24 electric utility infrastructure projects, with the goal of minimizing
25 the aggregate amount and cost of new transmission needed
26 statewide to meet both reliability needs and renewable energy
27 targets.

28 (3) Seek proposals from, and propose transmission projects to,
29 local publicly owned electric utilities that can be jointly owned by
30 electrical corporations, merchant transmission companies, and
31 local publicly owned electric utilities, and can be jointly operated
32 by the Independent System Operator and local publicly owned
33 electric utility balancing authorities.

34 (4) Eliminate barriers established by the Independent System
35 Operator over transmission lines in its control area.

36 (c) The commission shall approve reasonable and cost-effective
37 transmission and power line investments that are not under the
38 ratemaking authority of the Federal Energy Regulatory
39 Commission and that are necessary to enable electricity generated

1 by eligible renewable energy resources to be delivered to retail
2 sellers and local publicly owned electric utilities.

3 SEC. 18. Section 454.5 of the Public Utilities Code is amended
4 to read:

5 454.5. (a) The commission shall specify the allocation of
6 electricity, including quantity, characteristics, and duration of
7 electricity delivery, that the Department of Water Resources shall
8 provide under its power purchase agreements to the customers of
9 each electrical corporation, which shall be reflected in the electrical
10 corporation's proposed procurement plan. Each electrical
11 corporation shall file a proposed procurement plan with the
12 commission not later than 60 days after the commission specifies
13 the allocation of electricity. The proposed procurement plan shall
14 specify the date that the electrical corporation intends to resume
15 procurement of electricity for its retail customers, consistent with
16 its obligation to serve. After the commission's adoption of a
17 procurement plan, the commission shall allow not less than 60
18 days before the electrical corporation resumes procurement
19 pursuant to this section.

20 (b) An electrical corporation's proposed procurement plan shall
21 include, but not be limited to, all of the following:

22 (1) An assessment of the price risk associated with the electrical
23 corporation's portfolio, including any utility-retained generation,
24 existing power purchase and exchange contracts, and proposed
25 contracts or purchases under which an electrical corporation will
26 procure electricity, electricity demand reductions, and
27 electricity-related products and the remaining open position to be
28 served by spot market transactions.

29 (2) A definition of each electricity product, electricity-related
30 product, and procurement related financial product, including
31 support and justification for the product type and amount to be
32 procured under the plan.

33 (3) The duration of the plan.

34 (4) The duration, timing, and range of quantities of each product
35 to be procured.

36 (5) A competitive procurement process under which the
37 electrical corporation may request bids for procurement-related
38 services, including the format and criteria of that procurement
39 process.

1 (6) An incentive mechanism, if any incentive mechanism is
2 proposed, including the type of transactions to be covered by that
3 mechanism, their respective procurement benchmarks, and other
4 parameters needed to determine the sharing of risks and benefits.

5 (7) The upfront standards and criteria by which the acceptability
6 and eligibility for rate recovery of a proposed procurement
7 transaction will be known by the electrical corporation prior to
8 execution of the transaction. This shall include an expedited
9 approval process for the commission's review of proposed contracts
10 and subsequent approval or rejection thereof. The electrical
11 corporation shall propose alternative procurement choices in the
12 event a contract is rejected.

13 (8) Procedures for updating the procurement plan.

14 (9) A showing that the procurement plan will achieve the
15 following:

16 (A) The electrical corporation will, ~~in order to fulfill its unmet~~
17 ~~resource needs and in furtherance of Section 701.3,~~ until a 20 33
18 percent renewable resources portfolio is achieved, procure
19 renewable energy resources with the goal of ensuring that at least
20 an additional 1 percent per year of the electricity sold by the
21 electrical corporation is generated from renewable energy
22 resources, ~~provided sufficient funds are made available pursuant~~
23 ~~to Sections 399.6 and 399.15, to cover the above-market costs for~~
24 ~~new renewable energy resources.~~

25 (B) The electrical corporation will create or maintain a
26 diversified procurement portfolio consisting of both short-term
27 and long-term electricity and electricity-related and demand
28 reduction products.

29 (C) The electrical corporation will first meet its unmet resource
30 needs through all available energy efficiency and demand reduction
31 resources that are cost effective, reliable, and feasible.

32 (10) The electrical corporation's risk management policy,
33 strategy, and practices, including specific measures of price
34 stability.

35 (11) A plan to achieve appropriate increases in diversity of
36 ownership and diversity of fuel supply of nonutility electrical
37 generation.

38 (12) A mechanism for recovery of reasonable administrative
39 costs related to procurement in the generation component of rates.

(c) The commission shall review and accept, modify, or reject each electrical corporation's procurement plan. The commission's review shall consider each electrical corporation's individual procurement situation, and shall give strong consideration to that situation in determining which one or more of the features set forth in this subdivision shall apply to that electrical corporation. A procurement plan approved by the commission shall contain one or more of the following features, provided that the commission may not approve a feature or mechanism for an electrical corporation if it finds that the feature or mechanism would impair the restoration of an electrical corporation's creditworthiness or would lead to a deterioration of an electrical corporation's creditworthiness:

(1) A competitive procurement process under which the electrical corporation may request bids for procurement-related services. The commission shall specify the format of that procurement process, as well as criteria to ensure that the auction process is open and adequately subscribed. Any purchases made in compliance with the commission-authorized process shall be recovered in the generation component of rates.

(2) An incentive mechanism that establishes a procurement benchmark or benchmarks and authorizes the electrical corporation to procure from the market, subject to comparing the electrical corporation's performance to the commission-authorized benchmark or benchmarks. The incentive mechanism shall be clear, achievable, and contain quantifiable objectives and standards. The incentive mechanism shall contain balanced risk and reward incentives that limit the risk and reward of an electrical corporation.

(3) Upfront achievable standards and criteria by which the acceptability and eligibility for rate recovery of a proposed procurement transaction will be known by the electrical corporation prior to the execution of the bilateral contract for the transaction. The commission shall provide for expedited review and either approve or reject the individual contracts submitted by the electrical corporation to ensure compliance with its procurement plan. To the extent the commission rejects a proposed contract pursuant to this criteria, the commission shall designate alternative procurement choices obtained in the procurement plan that will be recoverable for ratemaking purposes.

1 (d) A procurement plan approved by the commission shall
2 accomplish each of the following objectives:

3 (1) Enable the electrical corporation to fulfill its obligation to
4 serve its customers at just and reasonable rates.

5 (2) Eliminate the need for after-the-fact reasonableness reviews
6 of an electrical corporation's actions in compliance with an
7 approved procurement plan, including resulting electricity
8 procurement contracts, practices, and related expenses. However,
9 the commission may establish a regulatory process to verify and
10 assure that each contract was administered in accordance with the
11 terms of the contract, and contract disputes which may arise are
12 reasonably resolved.

13 (3) Ensure timely recovery of prospective procurement costs
14 incurred pursuant to an approved procurement plan. The
15 commission shall establish rates based on forecasts of procurement
16 costs adopted by the commission, actual procurement costs
17 incurred, or combination thereof, as determined by the commission.
18 The commission shall establish power procurement balancing
19 accounts to track the differences between recorded revenues and
20 costs incurred pursuant to an approved procurement plan. The
21 commission shall review the power procurement balancing
22 accounts, not less than semiannually, and shall adjust rates or order
23 refunds, as necessary, to promptly amortize a balancing account,
24 according to a schedule determined by the commission. Until
25 January 1, 2006, the commission shall ensure that any
26 overcollection or undercollection in the power procurement
27 balancing account does not exceed 5 percent of the electrical
28 corporation's actual recorded generation revenues for the prior
29 calendar year excluding revenues collected for the Department of
30 Water Resources. The commission shall determine the schedule
31 for amortizing the overcollection or undercollection in the
32 balancing account to ensure that the 5 percent threshold is not
33 exceeded. After January 1, 2006, this adjustment shall occur when
34 deemed appropriate by the commission consistent with the
35 objectives of this section.

36 (4) Moderate the price risk associated with serving its retail
37 customers, including the price risk embedded in its long-term
38 supply contracts, by authorizing an electrical corporation to enter
39 into financial and other electricity-related product contracts.

1 (5) Provide for just and reasonable rates, with an appropriate
2 balancing of price stability and price level in the electrical
3 corporation's procurement plan.

4 (e) The commission shall provide for the periodic review and
5 prospective modification of an electrical corporation's procurement
6 plan.

7 (f) The commission may engage an independent consultant or
8 advisory service to evaluate risk management and strategy. The
9 reasonable costs of any consultant or advisory service is a
10 reimbursable expense and eligible for funding pursuant to Section
11 631.

12 (g) The commission shall adopt appropriate procedures to ensure
13 the confidentiality of any market sensitive information submitted
14 in an electrical corporation's proposed procurement plan or
15 resulting from or related to its approved procurement plan,
16 including, but not limited to, proposed or executed power purchase
17 agreements, data request responses, or consultant reports, or any
18 combination, provided that the Office of Ratepayer Advocates and
19 other consumer groups that are nonmarket participants shall be
20 provided access to this information under confidentiality
21 procedures authorized by the commission.

22 (h) Nothing in this section alters, modifies, or amends the
23 commission's oversight of affiliate transactions under its rules and
24 decisions or the commission's existing authority to investigate and
25 penalize an electrical corporation's alleged fraudulent activities,
26 or to disallow costs incurred as a result of gross incompetence,
27 fraud, abuse, or similar grounds. Nothing in this section expands,
28 modifies, or limits the State Energy Resources Conservation and
29 Development Commission's existing authority and responsibilities
30 as set forth in Sections 25216, 25216.5, and 25323 of the Public
31 Resources Code.

32 (i) An electrical corporation that serves less than 500,000 electric
33 retail customers within the state may file with the commission a
34 request for exemption from this section, which the commission
35 shall grant upon a showing of good cause.

36 (j) (1) Prior to its approval pursuant to Section 851 of any
37 divestiture of generation assets owned by an electrical corporation
38 on or after the date of enactment of the act adding this section, the
39 commission shall determine the impact of the proposed divestiture
40 on the electrical corporation's procurement rates and shall approve

1 a divestiture only to the extent it finds, taking into account the
2 effect of the divestiture on procurement rates, that the divestiture
3 is in the public interest and will result in net ratepayer benefits.

4 (2) Any electrical corporation's procurement necessitated as a
5 result of the divestiture of generation assets on or after the effective
6 date of the act adding this subdivision shall be subject to the
7 mechanisms and procedures set forth in this section only if its
8 actual cost is less than the recent historical cost of the divested
9 generation assets.

10 (3) Notwithstanding paragraph (2), the commission may deem
11 proposed procurement eligible to use the procedures in this section
12 upon its approval of asset divestiture pursuant to Section 851.

13 SEC. 19. Section 739.1 of the Public Utilities Code is amended
14 to read:

15 739.1. (a) The commission shall establish a program of
16 assistance to low-income electric and gas customers *with annual*
17 *household incomes at or below 200 percent of the federal poverty*
18 *guideline levels*, the cost of which shall ~~not be borne solely by any~~
19 ~~single class of customer~~ *be recovered on an equal*
20 *cent-per-kilowatthour or equal cents-per-therm basis from all*
21 *classes of customers that were subject to the surcharge that funded*
22 *the program on January 1, 2008.* The program shall be referred
23 to as the California Alternate Rates for Energy or CARE program.
24 The commission shall ensure that the level of discount for
25 low-income electric and gas customers correctly reflects the level
26 of need.

27 (b) The commission shall work with the public utility electrical
28 and gas corporations to establish penetration goals. The
29 commission shall authorize recovery of all administrative costs
30 associated with the implementation of the CARE program that the
31 commission determines to be reasonable, through a balancing
32 account mechanism. Administrative costs shall include, but are
33 not limited to, outreach, marketing, regulatory compliance,
34 certification and verification, billing, measurement and evaluation,
35 and capital improvements and upgrades to communications and
36 processing equipment.

37 (c) The commission shall examine methods to improve CARE
38 enrollment and participation. This examination shall include, but
39 need not be limited to, comparing information from CARE and
40 the Universal Lifeline Telephone Service (ULTS) to determine

1 the most effective means of utilizing that information to increase
2 CARE enrollment, automatic enrollment of ULTS customers who
3 are eligible for the CARE program, customer privacy issues, and
4 alternative mechanisms for outreach to potential enrollees. The
5 commission shall ensure that a customer consents prior to
6 enrollment. The commission shall consult with interested parties,
7 including ULTS providers, to develop the best methods of
8 informing ULTS customers about other available low-income
9 programs, as well as the best mechanism for telephone providers
10 to recover reasonable costs incurred pursuant to this section.

11 (d) (1) The commission shall improve the CARE application
12 process by cooperating with other entities and representatives of
13 California government, including the California Health and Human
14 Services Agency and the Secretary of California Health and Human
15 Services, to ensure that all gas and electric customers eligible for
16 public assistance programs in California that reside within the
17 service territory of an electrical corporation or gas corporation,
18 are enrolled in the CARE program. To the extent practicable, the
19 commission shall develop a CARE application process using the
20 existing ULTS application process as a model. The commission
21 shall work with public utility electrical and gas corporations and
22 the Low-Income Oversight Board established in Section 382.1 to
23 meet the low-income objectives in this section.

24 (2) The commission shall ensure that an electrical corporation
25 or gas corporation with a commission-approved program to provide
26 discounts based upon economic need in addition to the CARE
27 program, including a Family Electric Rate Assistance program,
28 utilize a single application form, to enable an applicant to
29 alternatively apply for any assistance program for which the
30 applicant may be eligible. It is the intent of the Legislature to allow
31 applicants under one program, that may not be eligible under that
32 program, but that may be eligible under an alternative assistance
33 program based upon economic need, to complete a single
34 application for any commission-approved assistance program
35 offered by the public utility.

36 (e) The commission's program of assistance to low-income
37 electric and gas customers shall, as soon as practicable, include
38 nonprofit group living facilities specified by the commission, if
39 the commission finds that the residents in these facilities
40 substantially meet the commission's low-income eligibility

1 requirements and there is a feasible process for certifying that the
2 assistance shall be used for the direct benefit, such as improved
3 quality of care or improved food service, of the low-income
4 residents in the facilities. The commission shall authorize utilities
5 to offer discounts to eligible facilities licensed or permitted by
6 appropriate state or local agencies, and to facilities, including
7 women’s shelters, hospices, and homeless shelters, that may not
8 have a license or permit but provide other proof satisfactory to the
9 utility that they are eligible to participate in the program.

10 (f) It is the intent of the Legislature that the commission ensure
11 CARE program participants are afforded the lowest possible
12 electric and gas rates and, to the extent possible, are exempt from
13 additional surcharges attributable to the energy crisis of 2000–01.

14 (g) *(1) As used in this subdivision, the following terms have the*
15 *following meanings:*

16 (A) *“Baseline quantity” has the same meaning as defined in*
17 *Section 739.*

18 (B) *“California Solar Initiative” means the program providing*
19 *ratepayer funded incentives for eligible solar energy systems*
20 *adopted by the commission in Decision 05-12-044 and Decision*
21 *06-01-024, as modified by Article 1 (commencing with Section*
22 *2851) of Chapter 9 of Part 2 and Chapter 8.8 (commencing with*
23 *Section 25780) of Division 15 of the Public Resources Code.*

24 (C) *“CalWORKs program” means the program established*
25 *pursuant to the California Work Opportunity and Responsibility*
26 *to Kids Act (Chapter 2 (commencing with Section 11200) of Part*
27 *3 of Division 9 the Welfare and Institutions Code).*

28 (D) *“Public good charge” means the nonbypassable separate*
29 *rate component imposed pursuant to Article 7 (commencing with*
30 *Section 381) or Chapter 2.3 and the nonbypassable system benefits*
31 *charge imposed pursuant to the Reliable Electric Service*
32 *Investments Act (Article 15 (commencing with Section 399) of*
33 *Chapter 2.3).*

34 (2) *The commission may, subject to the limitation in paragraph*
35 *(4), increase the rates in effect for CARE program participants*
36 *for electricity usage up to 130 percent of baseline quantities by*
37 *the annual percentage increase in benefits under the CalWORKs*
38 *program as authorized by the Legislature for the fiscal year in*
39 *which the rate increase would take effect, but not to exceed 3*
40 *percent per year. The CARE rate for usage above 130 percent of*

1 *baseline quantities may be adjusted annually by up to 3 percent,*
2 *but not to exceed the annual percentage increase in benefits under*
3 *the CalWORKs program. This paragraph shall become inoperative*
4 *on January 1, 2019, unless a later enacted statute deletes or*
5 *extends that date.*

6 *(3) Beginning January 1, 2019, the commission may, subject to*
7 *the limitation in paragraph (4), establish rates for CARE program*
8 *participants pursuant to Sections 739, 739.1, and 739.9, subject*
9 *to the requirements of subdivision (b) of Section 382 that the*
10 *commission ensure that low-income ratepayers are not jeopardized*
11 *or overburdened by monthly energy expenditures.*

12 *(4) Tier 1, tier 2, and tier 3 CARE rates shall not exceed 80*
13 *percent of the corresponding rates charged residential customers*
14 *not participating in the CARE program, excluding any Department*
15 *of Water Resources bond charge imposed pursuant to Division 27*
16 *(commencing with Section 80000) of the Water Code, the CARE*
17 *surcharge portion of the public goods charge, any charge imposed*
18 *pursuant to the California Solar Initiative, and any charge imposed*
19 *to fund any other program that exempts CARE participants from*
20 *paying the charge.*

21 *(5) Rates charged CARE program participants shall not have*
22 *more than three tiers. An electrical corporation that does not have*
23 *a tier 3 CARE rate may introduce a tier 3 CARE rate that, in order*
24 *to moderate the impact on program participants whose usage*
25 *exceeds 130 percent of baseline quantities, shall be phased in to*
26 *80 percent of the corresponding rates charged residential*
27 *customers not participating in the CARE program, excluding any*
28 *Department of Water Resources bond charge imposed pursuant*
29 *to Division 27 (commencing with Section 80000) of the Water*
30 *Code, the CARE surcharge portion of the public goods charge,*
31 *any charge imposed pursuant to the California Solar Initiative,*
32 *and any other charge imposed to fund a program that exempts*
33 *CARE participants from paying the charge. Any additional*
34 *revenues collected by an electrical corporation resulting from the*
35 *adoption of a tier 3 CARE rate shall, until the utility's next periodic*
36 *general rate case review of cost allocation and rate design, be*
37 *tracked and credited to reduce rates of residential ratepayers not*
38 *participating in the CARE program with usage above 130 percent*
39 *of baseline quantities.*

1 SEC. 20. Section 739.9 is added to the Public Utilities Code,
2 to read:

3 739.9. (a) The commission may, subject to the limitation in
4 subdivision (b), increase the rates charged residential customers
5 for electricity usage up to 130 percent of the baseline quantities,
6 as defined in Section 739, by the annual percentage change in the
7 Consumer Price Index from the prior year plus 1 percent, but not
8 less than 3 percent and not more than 5 percent per year. For
9 purposes of this subdivision, the annual percentage change in the
10 Consumer Price Index shall be calculated using the same formula
11 that was used to determine the annual Social Security Cost of
12 Living Adjustment on January 1, 2008. This subdivision shall
13 become inoperative on January 1, 2019, unless a later enacted
14 statute deletes or extends that date.

15 (b) The rates charged residential customers for electricity usage
16 up to the baseline quantities, including any customer charge
17 revenues, shall not exceed 90 percent of the system average rate
18 prior to January 1, 2019, and may not exceed 92.5 percent after
19 that date. For purposes of this subdivision, the system average rate
20 shall be determined by dividing the electrical corporation's total
21 revenue requirements for bundled service customers by the adopted
22 forecast of total bundled service sales.

23 (c) This section does not require the commission to raise any
24 residential rate or restrict, or otherwise limit, the authority of the
25 commission to reduce any residential rate in effect immediately
26 preceding January 1, 2009.

27 SEC. 21. Section 745 is added to the Public Utilities Code, to
28 read:

29 745. (a) The commission shall not require or permit an
30 electrical corporation to employ mandatory dynamic pricing for
31 residential customers.

32 (b) The commission may authorize an electrical corporation to
33 offer residential customers the option of receiving service pursuant
34 to dynamic pricing.

35 (c) The commission may, beginning January 1, 2016, authorize
36 an electrical corporation to employ default dynamic pricing for
37 residential customers, if the customer has the option of receiving
38 service pursuant to a rate schedule that is not based upon dynamic
39 pricing. The commission shall only approve an electrical
40 corporation's default use of dynamic pricing if residential

1 customers that exercise the option to not receive service pursuant
2 to dynamic pricing incur no additional costs as a result of the
3 exercise of that option.

4 SEC. 22. Section 1005.1 is added to the Public Utilities Code,
5 to read:

6 1005.1. (a) The commission shall approve an application for
7 a certificate within one year of the date of filing of the completed
8 application, when all of the following are true:

9 (1) The application is for a certificate for building or upgrading
10 an electrical transmission line.

11 (2) The transmission line is needed to provide transmission to
12 load centers for electricity generated in a high priority renewable
13 energy zone or is reasonably necessary to facilitate achievement
14 of the renewables portfolio standard established in Article 16
15 (commencing with Section 399.11) of Chapter 2.3.

16 (3) The commission has not expressly found any of the
17 following:

18 (A) That the investment is not reasonable and necessary to
19 maintain or enhance reliability of the transmission grid.

20 (B) That the building or upgrading of the electrical transmission
21 line will not maintain or enhance efficient use of the transmission
22 grid.

23 (C) That the transmission line fails to meet other applicable
24 standards and requirements for approval and construction.

25 (D) That the transmission line threatens substantial harm to the
26 environment that necessitates an extension of time for completion
27 of review pursuant to the California Environmental Quality Act
28 (Division 13 (commencing with Section 21000) of the Public
29 Resources Code).

30 (b) The commission may, if it finds that the costs were justified
31 pursuant to subdivision (a) of Section 454, allow recovery in rates
32 of any increase in transmission costs incurred by an electrical
33 corporation in planning, designing, and engineering the
34 reconfiguration, replacement, expansion, or construction of
35 transmission facilities, to the extent that those costs are not
36 otherwise authorized for recovery in rates approved by the Federal
37 Energy Regulatory Commission.

38 SEC. 23. Section 80110 of the Water Code is amended to read:

39 80110. (a) The department shall retain title to all power sold
40 by it to the retail end-use customers. The department shall be

1 entitled to recover, as a revenue requirement, amounts and at the
2 times necessary to enable it to comply with Section 80134, and
3 shall advise the commission as the department determines to be
4 appropriate.

5 (b) The revenue requirements may also include any advances
6 made to the department hereunder or hereafter for purposes of this
7 division, or from the Department of Water Resources Electric
8 Power Fund, and General Fund moneys expended by the
9 department pursuant to the Governor's Emergency Proclamation
10 dated January 17, 2001.

11 (c) (1) For the purposes of this division and except as otherwise
12 provided in this section, the Public Utility Commission's authority
13 as set forth in Section 451 of the Public Utilities Code shall apply,
14 except any just and reasonable review under Section 451 shall be
15 conducted and determined by the department. Prior to the execution
16 of any modification of any contract for the purchase of power by
17 the department pursuant to this division, on or after the effective
18 date of this section, the department or the commission, as
19 applicable, shall do the following:

20 (A) The department shall notify the public of its intent to modify
21 a contract and the opportunity to comment on the proposed
22 modification.

23 (B) At least 21 days after providing public notice, the department
24 shall make a determination as to whether the proposed
25 modifications are just and reasonable. The determination shall
26 include responses to any public comments.

27 (C) No later than 70 days before the date of execution of the
28 contract modification, the department shall provide a written report
29 to the commission setting forth the justification for the
30 determination that the proposed modification is just and reasonable,
31 including documents, analysis, response to public comments, and
32 other information relating to the determination.

33 (D) Within 60 days of the date of receipt of the department's
34 written report, the commission shall review the report and make
35 public its comments. If the commission in its comments
36 recommends against the proposed modification, the department
37 shall not execute the proposed contract modification.

38 (2) This subdivision does not apply to the modification of a
39 contract modified to settle litigation to which the commission is
40 a party.

1 (3) This subdivision does not apply to the modification of a
2 contract for the purchase of electricity that is generated from a
3 facility owned by a public agency if the contract requires the public
4 agency to sell electricity to the department at or below the public
5 agency's cost of that power.

6 (4) This subdivision does not apply to the modification of a
7 contract to address issues relating to billing, scheduling, delivery
8 of electricity, and related contract matters arising out of the
9 implementation by the Independent System Operator of its market
10 redesign and technology upgrade program.

11 (5) (A) For purposes of this subdivision, the department
12 proposes to "modify" a contract if there is any material change
13 proposed in the terms of the contract.

14 (B) A change to a contract is not material if it is only
15 administrative in nature or the change in ratepayer value results
16 in ratepayer savings, not to exceed twenty-five million dollars
17 (\$25,000,000) per year. For the purpose of making a determination
18 that a change is only administrative in nature or results in ratepayer
19 savings of twenty-five million dollars (\$25,000,000) or less per
20 year, the executive director of the commission shall concur in
21 writing with each of those determinations by the department.

22 (d) The commission may enter into an agreement with the
23 department with respect to charges under Section 451 for purposes
24 of this division, and that agreement shall have the force and effect
25 of a financing order adopted in accordance with Article 5.5
26 (commencing with Section 840) of Chapter 4 of Part 1 of Division
27 1 of the Public Utilities Code, as determined by the commission.

28 ~~(e) In no case shall the commission increase the electricity~~
29 ~~charges in effect on the date that the act that adds this section~~
30 ~~becomes effective for residential customers for existing baseline~~
31 ~~quantities or usage by those customers of up to 130 percent of~~
32 ~~existing baseline quantities, until such time as the department has~~
33 ~~recovered the costs of power it has procured for the electrical~~
34 ~~corporation's retail end-use customers as provided in this division.~~

35 (f)

36 ~~(e) After the passage of a period of time after February 1, 2001,~~
37 ~~as shall be determined by the commission, the~~ The right of retail
38 end-use customers pursuant to Article 6 (commencing with Section
39 360) of Chapter 2.3 of Part 1 of Division 1 of the Public Utilities
40 Code to acquire service from other providers shall be suspended

1 ~~until the department no longer supplies power hereunder the~~
2 ~~Legislature, by statute, lifts the suspension or otherwise authorizes~~
3 ~~direct transactions. The~~

4 (f) *Notwithstanding subdivision (e), the commission may allow*
5 *individual retail end-use customers currently taking service from*
6 *an electric service provider, or eligible to take service from an*
7 *electric service provider under rules adopted by the commission*
8 *in existence on January 1, 2008, to acquire service for new*
9 *accounts from an electric service provider.*

10 (g) *For purposes of this section, a “new account” means:*

11 (1) *An account belonging to an individual retail end-use*
12 *customer as described in subdivision (f) that exists on January 1,*
13 *2009, that receives bundled utility service from an electrical*
14 *corporation.*

15 (2) *An additional meter or request for service of an individual*
16 *retail end-use customer as described in subdivision (f), added after*
17 *January 1, 2009.*

18 (h) *The department shall have the same rights with respect to*
19 *the payment by retail end-use customers for power sold by the*
20 *department as do providers of power to the customers.*

21 SEC. 24. It is the intent of the Legislature to, through the
22 Budget Act or other measure, appropriate the sum of three million
23 seven hundred thousand dollars (\$3,700,000) from the Public
24 Interest Research, Development, and Demonstration Fund to the
25 Energy Commission for contracts and for interagency agreements
26 with the Department of Fish and Game or other wildlife agencies
27 for the preparation of one or more natural communities
28 conservation plans in the Mojave Desert for the purposes of
29 facilitating the development of solar energy in that region.